



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN

DIRECTOR

December 22, 1994
AO-94-43

William J. McCarthy, Treasurer
Republican Club of Massachusetts
c/o Boston Bay Capital
One Liberty Square
Boston, MA 02109

Re: Republican Club Filing and Reporting Requirements

Dear Mr. McCarthy:

This letter is in response to your November 28, 1994 request for an advisory opinion regarding the filing and reporting obligations of the Republican Club of Massachusetts.

You have stated that the Republican Club ("the Club") does not make contributions to candidates or political committees.¹ Rather, the Club's mission is "party-building" for the Republican Party. In particular, the Club publishes a calendar of events of interest to Republican Party activists and supporters, sponsors unity luncheons following the Republican Party's convention and primary as a means of raising funds to offset the Club's operating costs and to provide a forum for bringing activists and supporters together. The purpose of the Club, as stated in the Statement of Organization filed with this office, is "to hold informative forums."

You have suggested that the Club is not a political party, and that the Club's decision to file a statement of organization with this office was "ill-advised." You contend that the Club is not a multi-candidate committee as that term is defined in the regulations issued by this office, nor would the Club be a political action committee (PAC) under the definition included in Ch. 43 of the Acts of 1994.

You have asked if organizations such as yours are political committees. If the Club is not a political committee, you would like to know if, as is the case with other groups which have registered as multi-candidate committees, a revised statement of organization, as a PAC, must be filed prior to January 1, 1995.

For the reasons which follow, organizations such as yours are not required to file statements of organization as political committees.

¹ A review of the campaign finance reports filed by the Club confirms that the Club has not made contributions to any candidate or political committee.

However, funds raised by the Club while registered as a political committee are subject to the restrictions of the campaign finance law. Finally, even if the Club is not registered as a political committee it cannot accept contributions from business corporations.

1. The Club is not required to register as a political committee.

Section 1 of the M.G.L. c. 55, the Massachusetts campaign finance law, defines a political committee as "any committee, association, organization, or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates, or of presidential and vice presidential electors, or for the purpose of opposing or promoting a . . . question submitted to the voters." (Emphasis added).

The use of the name of a political party by a group suggests that the group might be a political committee within the context of section 1. Such use is not, however, the determining factor. Even if a group uses the name of a political party, the group will only be considered a political committee if it receives contributions or makes expenditures specifically to influence the electoral process. Based on the facts presented in your letter, we would conclude that the use of the Republican party's name by the Club is not sufficient, standing alone, to find that the Club is required to register as a political committee.

2. The Club must spend funds raised while registered as a political committee in a manner consistent with M.G.L. c. 55.

Although the Club could raise and spend funds outside the campaign finance disclosure law, it chose to register as a political committee and raise and expend funds as a political committee. Therefore, any funds raised by the group while it was registered as a political committee remain subject to all requirements imposed by M.G.L. c. 55. If the Club wishes to dissolve or operate a separate unregistered organization, future activity may be conducted outside the committee provided the activity does not involve funds previously raised by the committee.

Ch. 43 of the Acts of 1994 does not change the definition of "political committee," but does add a definition for PACs. Consistent with Ch. 43, committees now referred to as multi-candidate committees must register as PACs (or people's committees) prior to January 1, 1995. If the Club does not file a statement of dissolution it must file a revised statement of organization prior to January 1, 1995 as a PAC (or people's committee). See IB-94-02 (a copy is enclosed). Thereafter, the Club must spend the funds raised while registered as a political committee in accordance with the campaign finance law. In the alternative, it may dissolve in which case it must donate any funds remaining in the Club's campaign finance account in accordance with the residual funds clause of M.G.L. c. 55, s. 18.²

² The most recent campaign finance report filed by the Club reflects a balance, as of October 21, 1994, of \$6,955.03.

The residual funds clause specifies that when a political committee closes its account, it must donate the funds remaining in the committee's account to: (1) the Local Aid Fund established under the provisions of M.G.L. c. 29, s. 2D; (2) a religious or charitable organization subject to M.G.L. c. 67 or M.G.L. c. 12, s. 8; (3) a scholarship fund; or (4) the general fund of any city or town in the commonwealth.

3. The Club may not receive contributions from business corporations.

M.G.L. c. 55, s. 8 prohibits business corporations from directly or indirectly making contributions "for the purpose of aiding or promoting or antagonizing the interests of any political party." Since the Club's purpose is to promote the Republican Party, the Club, even if it is not a political committee, cannot accept contributions from business corporations.

4. The Club should inform contributors that it is not a political committee connected with the Republican party.

If the Club does not intend to operate as a political committee in the future, it should inform contributors that (1) the Club is not a political committee connected with the Republican party; (2) the Club will not use funds received to promote candidates or ballot questions; and (3) no political fundraising will take place at events sponsored by the Club. In the absence of such notification, confusion may result, since persons may reasonably believe that the Club is associated with the Republican party and that contributions made to the Club will be used for a political purpose. See AO-93-28.

This opinion is solely in the context of M.G.L. c. 55³ and is based solely on the representations made in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,



Michael J. Sullivan
Director

MJS/cp
Enclosure

³ You should note that M.G.L. c. 56, s. 42 states that organizations cannot use the name of a political party in circulars, advertisements or publications, except with the written consent of the duly elected state committee representing such political party. You should contact the Secretary of State, Elections Division, if you have questions regarding compliance with this provision.